

FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

JAN 25 2018

David Bauer, Treasurer McClintock for Congress 2150 River Plaza Dr. #150 Sacramento, CA 98533

RE: MUR 7278

Dear Mr. Bauer:

On September 27, 2017, the Federal Election Commission (the "Commission") notified you and McClintock for Congress of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on January 9, 2017, voted to dismiss the allegations and close the file. The Commission also instructs the Committee to include a sufficient purpose when disclosing wage garnishments in its disclosure reports filed with the Commission. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

If you have any questions, please contact Wanda D. Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson

Acting General Counsel

BY: Jeff S. Jordan

Assistant General Counsel

Enclosure: Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

	FACTUAL AND LEGAL ANALISIS	
RESPONDENTS;	McClintock for Congress and David Bauer as treasurer	MUR 7278

I. INTRODUCTION

This matter was generated by a Complaint alleging that McClintock for Congress and David Bauer, in his official capacity as treasurer (the "Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by incorrectly describing disbursements in disclosure reports filed with the Federal Election Commission (the "Commission"). The Commission exercises its prosecutorial discretion to dismiss the allegations.

II. FACTUAL AND LEGAL ANALYSIS

The Complaint alleges that since 2014, the Committee has incorrectly described the purpose of disbursements to California Disbursement Unit for child support payments made on behalf of a Committee staff member.¹ The Complaint states that the Committee avoids disclosing the staffer's total salary by disclosing a portion of it as disbursements for "child support." Further, the Complaint alleges that the Committee failed to disclose the type and purpose for a \$254.14 disbursement to the Capitol Hill Club in Washington, D.C. The Committee described the purpose of the disbursement as "meeting."

The Committee responds that it withholds child support from the staffer pursuant to a court order, and that it reported the disbursements as instructed by the Commission's Reports

¹ Compl. at 2 (Sept. 22, 2017).

Id.

³ *Id*.

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1 Analysis Division ("RAD").⁴ The Committee does not address the allegation regarding the

2 \$254.14 disbursement.

The Act and the Commission's regulations require each treasurer of an authorized political committee to file quarterly reports of receipts and disbursements.⁵ Further, political committees are required to itemize disbursements, including a brief description of each disbursement's purpose.⁶ The Commission's *Statement of Policy: "Purpose of Disbursement" Entries for Filings with the Commission* instructs that descriptions, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make clear the purpose of the disbursement.⁷ Further, the policy includes a non-exhaustive list of sufficient and insufficient "purposes" for disbursements made by political committees, and instructs political committees to contact their Reports Analysis Division analysts with questions as to how to report the purposes of disbursements.⁸

Regardless of whether the Committee violated the Act, given the technical nature of the alleged violations and in furtherance of the Commission's priorities, relative to other matters pending on the Enforcement docket, the Commission exercises its prosecutorial discretion and dismisses the allegations that the Committee violated 52 U.S.C. § 30104(b)(4)-(7).9

⁴ Resp. at 1 (Oct. 2, 2017).

⁵² U.S.C. § 30104(a), (b); 11 C.F.R. §§ 104.1, 104.3(a), (b), 104.5(a).

⁶ 52 U.S.C. § 30104(b)(4)-(6); 11 C.F.R. § 104.3(b)(3), (4).

Statement of Policy "Purpose of Disbursement" Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007).

⁸ Id. at 888.

⁹ Heckler v. Chaney, 470 U.S. 821 (1985).